

To: Kakade, Seema[Kakade.Seema@epa.gov]
Cc: Moore, Stephanie[Stephanie.Moore@luminant.com]; Smith, Kristi[Smith.Kristi@epa.gov]
From: Kelly, Dan
Sent: Fri 2/24/2017 9:55:39 PM
Subject: Re: Call this am

Got it. Thanks for the update. We saw that filing. Have a good weekend.

Best,

Dan

Daniel Kelly
Vice President & Associate General Counsel
Vistra Energy

Sent from my iPhone

On Feb 24, 2017, at 11:37 AM, Kakade, Seema <Kakade.Seema@epa.gov> wrote:

EXTERNAL EMAIL

Stephanie and Dan:

Thanks for the call this morning. I spoke with DOJ after our conversation and they explained that because of the Fifth Circuit's holdings in *Levron v. Gulf International*, 854 F.2d 777 (5th Cir. 1988) and its progeny, the best approach was to file a notice of appeal within 60 days after the second amended complaint, which is this weekend. They were in the process of filing when I spoke with them. As we discussed, I welcome any settlement proposal from you, and I encourage you to consider our discussion on emission rates at the units at issue in the case.

Best regards,

Seema

Ms. Seema Kakade

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